

Change the heading for PART Env-Ws 306 and renumber as PART Env-Dw 720, as follows:

**PART ~~Env-Ws 306~~ Env-Dw 720 SANITARY SURVEY INSPECTIONS; SIGNIFICANT DEFICIENCIES**

Readopt with amendment Env-Ws 303.05, eff. 11-30-05 (doc. #8498), and renumber as Env-Dw 720.01, to read as follows:

**Env-Ws 303.05-Env-Dw 720.01 Entry and Inspection of Public Water Systems *and Privately Owned Redistribution Systems.***

(a) ***As specified in RSA 485:41, V, in order to determine compliance with RSA 485 and rules adopted under RSA 485, specifically Env-Ws 300 and successor rules in subtitle Env-Dw, the department shall enter, and authorize its employees and agents to enter, the premises of public water systems (PWS) and privately owned redistribution systems (PORS) for the purpose of carrying out inspections, taking water samples, and inspecting any and all records and facilities of such PWS and PORS (systems).***

(ab) ~~Any supplier of water~~***The owner, operator, or any other person(s) in charge of the premises, facilities, or records, including any other existing information that will assist the department in conducting the inspection, or any combination thereof, of a PWS or PORS*** ~~subject to a drinking water rule~~ shall allow staff of the department to:

(1) ~~E~~***enter any establishment, facility, or other property owned by or the premises and facilities under the control of such supplier or other person to determine whether such supplier or other person has acted or is acting in compliance with the requirements of Env-Ws 300 for the purpose of evaluating the adequacy of the facilities, equipment, processes, controls, and operation and maintenance of the system for producing and distributing safe drinking water to persons served by the system;***

~~(b)(2) Conduct t~~***ests of-on any feature of a public water the system, including, as applicable, its raw water source, provided that when such or distribution system water; and***

(3) ***Review all records and files of the system, along with any other existing information that will assist the department in conducting the inspection.***

(c) ***If any tests conducted pursuant to (b)(2), above, are deemed necessary for the immediate protection of the consumers' health or safety of persons served by the system, the costs of the tests will be at shall be charged to the system's owner's expense.***

~~(b) Such inspection shall include:~~

~~(1) Inspection of records, files, paper, processes, controls, and facilities; and~~  
***{(2) has been moved and renumbered as (b)(2), above}***

~~(ed)~~ ***The owner, operator, or other person in charge of the premises, facilities, or records of the system being inspected may request identification from the inspector.***

Readopt with amendment Env-Ws 306.01, eff. 11-30-05 (doc. #8498), and renumber as Env-Dw 720.02, to read as follows:

**Env-Ws 306.01-Env-Dw 720.02 Sanitary Survey Field Inspections.**

(a) ***Subject to (b) below, Each public water system shall be subject to a periodic, detailed field inspection known as a sanitary survey. The purpose of this sanitary survey shall be to conduct an on-site review of the public water system in order to evaluate the adequacy of source(s), water quality, storage facilities, equipment, and operation and maintenance procedures to produce and distribute safe drinking water. The department shall give-notify the operator and owner of the system at least 24 hours<sup>2</sup> notice of the survey to the operator and owner in advance of a pending inspection.***

(b) ***The department shall not give advance notice if evidence indicates that a public health threat or other violation of Env-Ws 300 or successor rules in subtitle Env-Dw exists.***

(bc) The sanitary survey shall ~~include, but not be limited to,~~ ***cover*** the following areas:

- (1) The ~~water~~-system's layout and general information, ***such as the number of persons served by the system and whether the system serves residential, commercial, or industrial users;***
- (2) Water quality;
- (3) ***Monitoring, reporting, and data verification;***
- (~~34~~) Sources of supply;
- (~~45~~) Storage facilities;
- (~~56~~) Treatment facilities;
- (~~67~~) Pumping facilities, ***including pumps, pump houses, and controls;***
- (~~78~~) Distribution system;
- (9) ***System management and operation;***
- (~~8~~) ~~Financial capacity;~~
- (~~9~~) ~~Managerial capacity;~~
- (10) Technical, ***financial, and managerial*** capacity; ~~and~~
- (11) ***Owner and operator compliance with Env-Ws 300 and successor rules in subtitle Env-Dw;***
- (12) ***Emergency preparedness planning;***
- (~~11~~)(13) ~~Security;~~ ***and***
- (14) ***Any other aspect of the system that could influence the ability of the system to produce and distribute safe drinking water.***

(ed) If the department conducts a sanitary survey at a transient non-community ~~water~~-system 12 months or more after the last water quality samples were collected by the system, the department shall collect water samples during the sanitary survey and analyze the samples for those parameters ***for which*** the system is required to test ~~for~~, the cost of which shall be ~~borne by~~ ***charged to*** the system.

(de) The minimum frequency of sanitary surveys shall be as shown in Table ~~306~~**720**-1, below:

Table ~~306~~**720**-1  
Frequency of Sanitary Surveys

<u>Type of System</u>	<u>Frequency of Sanitary Survey</u>
Community:	3 years
Non-transient non-community	3 years
Transient non-community	5 years

*Readopt with amendment Env-Ws 306.02, eff. 11-30-05 (doc. #8498), and renumber as Env-Dw 720.03 through Env-Dw 720.06, to read as follows:*

~~Env-Ws 306.02~~ ***Env-Dw 720.03 Significant Deficiencies for Small Community and Non-Community water systems.***

(a) ~~During a sanitary survey at a small community or non-community water system, facility and~~

~~operational deficiencies shall be identified as described in this section.~~

(~~b~~**a**) Any of the following ~~deficiencies~~**conditions** shall be identified as ~~be identified as~~**constitute** a significant facility deficiency **for a PWS or as applicable for a PORS**:

~~(b)(12I) Storing hazardous material or debris~~ **A potential contamination source is present** in the sanitary ~~radius~~**protective area** of a well; ~~or~~

**(2) System has inadequate capacity for demand;**

~~(c)(63) Having a~~ **A non-approved well source is connected to the system, regardless of whether the source is in use;**

~~(c)(4) Having an inoperative~~ **Existing treatment facilities and processes are not operative;**

**(5) Treatment has been installed without prior approval from the department;**

**(6) System has low or negative pressures that could result in entry of contaminants;**

**(7) System lacks a cross-connection control program or cross-connection devices, if applicable;**

**(8) System lacks backflow prevention device, if required;**

**(9) System has an inoperative well pump;**

~~(b)(210) Not having~~ **System lacks an operative duplicate booster pumps, if required;**

~~(b)(311) Having~~ **System's a pump house is subject to flooding;**

**(12) System's pump house or storage or distribution facilities have been modified without prior approval from the department or do not meet applicable requirements;**

**(13) System has electrical hazards in or around the pump house;**

~~(c)(14) System does n~~ **Not having have a certified operator when even though one is required;**

**(15) System's certified operator is below the required grade;**

~~(b)(916) Having a~~ **System's water storage tank is subject to contamination;**

**(17) System does not perform general system maintenance using an established schedule;**

**(18) System has a pump house or well that is not secured;**

**(19) System does not have a properly-operating meter on each incoming source line, if required;**

~~(b)(420) System does n~~ **Not having have individual sampling taps for each source;**

~~(c)(521) System does n~~ **Not having have an approved emergency plan, where applicable; or**

**(22) Required monitoring, reporting, and recordkeeping is not being done as required;**

**(23) System has any other violation(s) of applicable rules that pose(s) a significant risk to public health; and**

***(24) As of March 31, 2012, system does not have record drawings, as described in Env-Ws 372.33(d), Env-Ws 373.36(c), or successor rules in subtitle Env-Dw, available for review by the department.***

- ~~(b)(1) Not having a proper vent on an atmospheric tank;~~
- ~~(b)(5) Having a buried well casing;~~
- ~~(b)(6) Having a well head subject to flooding;~~
- ~~(b)(7) Not having a secured protective radius;~~
- ~~(b)(8) Not having proper dug well construction;~~
- ~~(b)(10) Having a well located in a flooded vault;~~
- ~~(b)(11) Having water storage facilities with unscreened openings;~~
- ~~(b)(13) Having an unsealed well.~~
- ~~(c) Any of the following deficiencies shall be identified as a significant operational deficiency:~~
  - ~~(c)(2) Storing hazardous material or debris in or immediately near the wells or pumphouse; this is duplicative of new (a)(1)~~
  - ~~(c)(3) Not having the required number of operative wells;~~

***(b) Any PWS using a groundwater source also shall be subject to the significant deficiencies identified in Env-Dw 717.20.***

***Env-Dw 720.04 Notice of Significant Deficiencies; Corrective Action.***

~~(da)~~ The department shall inform the system owner of all significant ~~facility and operational~~ deficiencies in writing.

***(b) The notice issued pursuant to (a), above, shall require the owner to either:***

- (1) Implement corrective action(s) as specified in (c), below, within 120 days or such earlier time as is specified pursuant to (d), below; or***
- (2) Consult with the department within 30 days after receiving written notice for the purpose of developing a corrective action plan (CAP) as specified in Env-Dw 720.05.***

***(c) The corrective action directed by department shall consist of one or more of the following, as necessary to correct the problem and protect public health:***

- (1) Correct all significant deficiencies;***
- (2) Provide an alternate source of water; or***
- (3) Eliminate the source of contamination.***

***(d) The department shall specify a compliance deadline of less than 120 days if:***

- (1) The actions to be taken can reasonably be implemented in a shorter period of time; and***
- (2) An earlier date is needed to protect public health.***

***(e) A system owner who has been directed to take corrective action pursuant to this section shall notify the department within 30 days of completing the corrective action.***

***Env-Dw 720.05 Corrective Action Plan (CAP).***

***(a) If a system owner is required to develop a corrective action plan (CAP) pursuant to Env-Dw 720.04(b)(2), then within 30 days after the required consultation the owner shall develop and submit to the***

***department a CAP, which identifies the action(s) that will be taken to correct the system's deficiencies and the schedule upon which the action(s) will be taken.***

***(b) If any of the significant deficiencies cannot be corrected within 120 days of the date of the notice issued pursuant to Env-Dw 720.04(a), the CAP submitted by the system owner shall identify interim measures that will be taken in order to protect the health and safety of persons served by the system pending final action.***

***(c) The department shall approve a CAP proposed by the system owner if:***

***(1) The action(s) and schedule for taking the action(s) will correct all problems within a time frame that is protective of public health; and***

***(2) If any significant deficiencies cannot be corrected within 120 days of the date of the notice issued pursuant to Env-Dw 720.04(a), the CAP identifies interim measures that will be taken in order to protect the health and safety of persons served by the system pending final action.***

***(d) The owner shall not make any modifications to the approved CAP without first obtaining approval for the modifications from the department in accordance with (e) and (f), below.***

***(e) To request approval for modifications to the action(s) and/or schedule in an approved CAP, the owner shall submit a request in writing to the department which explains the requested modification(s) and the reason(s) why the CAP as modified meet the criteria for approval specified in (f), below.***

***(f) The department shall approve a modification to a CAP if:***

***(1) The modification was made necessary due to circumstances beyond the control of the system owner; and***

***(2) The CAP as modified will correct all remaining problems and be equally protective of public health.***

***(g) A system owner who has received approval for a CAP pursuant to this section shall notify the department within 30 days of completing the action(s) required by the CAP.***

***Env-Dw 720.06 Compliance.***

***(ea) ~~The system owner shall correct all significant operational or facility deficiencies w~~Within 90-120 days of the date of the notice ~~provided~~issued pursuant to ***Env-Dw 720.04(d-a)***, above, unless an alternative date has been established based on the severity or the complexity of the noted deficiency. ~~the system owner shall:~~***

***(1) Have fully corrected all significant deficiencies; or***

***(2) Be in compliance with a CAP approved by the department.***

***(b) A system shall be subject to enforcement as specified in RSA 485:58 for any fFailure to complete the response and correct the deficiency(ies) and for any failure to comply with an approved CAP shall subject the system to enforcement as specified in RSA 485:58.***

*Adopt Env-Dw 720.07 through Env-Dw 720.09 to read as follows:*

***Env-Dw 720.07 Violations Classified. For a PWS, failure to meet the corrective action requirements specified in Env-Dw 720.04 through Env-Dw 720.06 after notification of a significant deficiency shall constitute a treatment technique violation.***

***Env-Dw 720.08 Public Notification.***

***(a) The owner of a PWS at which a treatment technique violation as described in Env-Dw 720.07 occurs shall provide standard public notice as specified in Env-Ws 351 or successor rules in Env-Dw 800.***

***(b) The owner of a PWS at which a significant deficiency, as specified in Env-Dw 720.03, has not been corrected within 12 months of being notified of the deficiency, shall notify persons served by the system of the deficiency through the consumer confidence report (CCR) as specified in Env-Ws 352 or successor rules in Env-Dw 800.***

***(c) If the owner of a PWS is required to provide information on a significant deficiency in a CCR pursuant to (b), above, the information shall be reported in the CCR annually until the deficiency has been corrected and confirmation of the correction has been received from the department.***

***(d) The information required by (b), above, to be inserted into the CCR shall include:***

***(1) The nature of the significant deficiency and the date it was identified by the department; and***

***(2) A description of the approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed.***

***(e) In a community where the population of non-English speaking residents exceeds 20% of the community population, the notice shall contain:***

***(1) Information in the appropriate language(s) regarding the importance of the notice; or***

***(2) A telephone number or address, in the appropriate language, at which customers can contact the system to obtain a translated copy of the notice or assistance in the appropriate language.***

***Env-Dw 720.09 Required Recordkeeping for Public Water Systems.***

***(a) In addition to complying with the requirements of Env-Ws 304 or successor rules in subtitle Env-Dw, a PWS owner shall maintain the following records for the time period specified, subject to (b), below:***

***(1) Documentation of corrective actions shall be retained for 10 years; and***

***(2) Documentation of notice to the public as required under Env-Ws 351 or successor rules in Env-Dw 800 shall be retained for 3 years.***

***(b) A PWS owner who has been notified by the department or any other local, state, or federal agency having enforcement authority that an investigation of the system or enforcement action against the system has been initiated shall retain the documentation specified in (a), above, for the time period specified in (a), above, or 3 years beyond the conclusion of the investigation and enforcement action, whichever is longer.***

**APPENDIX**

<b>Rule Section</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulation(s) Implemented</b>
Env-Dw 720 (also see specific sections below)	RSA 485:1, 3, 4, 41, 43, 45, 58	40 CFR 141; 40 CFR 142
Env-Dw 720.01 Env-Dw 720.02 Env-Dw 720.03	RSA 485:1, II(a), (d), (e), & (h); RSA 485:3, I(c); RSA 485:4, I & III; RSA 485:41, V; RSA 485:45	40 CFR 141.21(d); 40 CFR 141.401; 40 CFR 142.10(b)(2)
Env-Dw 720.04 Env-Dw 720.05 Env-Dw 720.06 Env-Dw 720.07	RSA 485:1, I; RSA 485:3, I(c); RSA 485:58, I	40 CFR 141.21(d); 40 CFR 141 Subpart D (§§31-35) 40 CFR 141 Subpart S (§§400-405)
Env-Dw 720.08	RSA 485:1, I; RSA 485:3, III(b); RSA 485:43	40 CFR 141.31; 40 CFR 141 Subpart Q (§§201-211); 40 CFR 141 Subpart S
Env-Dw 720.09	RSA 485:1, I; RSA 485:41, IV	40 CFR 141.33; 40 CFR 141 Subpart S